

UNITED STATES SMALL BUSINESS ADMINISTRATION

Arizona Hearing

September 29, 2004

PROCEEDINGS

[START TAPE 2 SIDE A]

HECTOR: Mike was one of the first appointments that I made, and I didn't make it because I was feeling sorry for him, although he is a recovering lawyer, and our mothers did know each other, and you know, he was always trying to aspire, but I knew that Mike would be the right person for the job. Mike was a successful business owner in his own right. He also grew up with small businesses, was the president of the Chamber of Commerce, the [unintelligible] chamber of commerce there, so I knew that he had the right background to be able to represent your interest. Mike also referenced the fact that regulation, a lot of times people don't realize this, is a major issue for small businesses. You know, before you went into business, I'm sure that many of you didn't spend a lot of time thinking about how regulation would play a role in your life, and if you knew about regulation and what it could mean, you may have made a different decision. But once you are in business, once you're growing your business, it's important for us that we help create an environment where you can succeed, and when small businesses spend more money per employee than large corporations who have a lot more resources and a lot more people that can do the regulation, that is a problem. That's one of the reasons why my boss, the president, in his small business agenda put streamlining regulation as one of the key focal points, because he understood as a small businessman himself, and as somebody who'd been the governor of a state with a lot of small businesses, that small businesses can't afford to deal with excessive, redundant, impractical legislation. So that's why these kinds of events are important.

Now, something else that my boss, at the very beginning, he said, "I don't want to be judged by what I say I'm going to do, I want to be judged by results, what I get done." So I want to share with you a couple of those results. One of them is that since the Ombudsman program has been in place, we have been able to measure about \$1 billion in savings for small businesses that would have paid fines that they probably shouldn't have had to pay. So we've been able to save \$1 billion just there. And I have to tell you that's even a lot of money in Washington DC; \$1 billion. But working together with other programs, like, for example, the Office of Advocacy, and Michael Hall [phonetic] was here a little while ago. Michael also has a very important responsibility at SBA. He is the regional advocate in this area, and their program deals with legislation and regulation before it goes into place. The Ombudsman deals with it after it's already in place and affecting small businesses. But since the administration has been in place, we have been able to measure that this administration has saved small business about \$30 billion worth of regulatory costs, and so

that is very important.

So I'm glad that you're here, and we can learn more. We always learn something that we didn't know. Our job is to take what you teach us here and make sure that we're going back to Washington talking to the centers of influence that makes these decisions. You know, before Michael came on board, the SBA and these other agencies that deal with regulation weren't even talking to each other. So Michael had a novel idea and said, "Why don't we invite all of those people that deal with regulation and these departments over to the SBA?" And somebody in the department said, "Well, we've never done that before," and Michael said, "Well, that's why we need to do it." So he brought them in and we started talking to them. Michael explained to them that we need to think on the front-end before we start doing things that are going to affect small business, not after it's already taken place, not after it's too late, but beforehand. So that is the kind of culture that we're trying to create at the SBA and government-wide. It's really starting to work.

I couple of other things I want to mention. Besides regulation, the president thought it was very important to lower the tax burden on small businesses, and that's why the jobs and growth package that passed was so important, because it saved small businesses \$75 billion that you put back to work into the economy. By the way, one of the areas where small business has struggled the most is with tax compliance. Regulation with the IRS and how do you fill your taxes. So anytime we can simplify the tax code, simplify and lower the amount of taxes that you pay, that is very important. Another thing that we've worked on as well is we've continued to lower the cost of health care for small business, lower the cost of energy for small business, and also prevent frivolous lawsuits from affecting small business. All of those are elements of the president's small business agenda.

Lastly, I would just say something that my boss tells me all the time. He says, "The role of government is not to create wealth. Government doesn't create wealth. Government doesn't create jobs. You all do that. The role of government is to create an environment where entrepreneurs are willing to take a risk, an environment where entrepreneurs are willing to risk their capital, and environment that truly heralds and celebrates the contributions of all of America's small businessmen and women. That's the role of government." And that's why we're here today.

[Spanish audio]

It is very important that we take your comments and feedback. Thank you for being here, and I will turn the program back over to the Ombudsman.

MICHAEL: Thank you, Hector. Now, in hearing that, is there

any doubt that you've got a great advocate on behalf of small business in Washington DC. He does great work for us.

Before we get started, we talk about partnership, but we have also to acknowledge the work and the help of those federal agencies that have adopted a [unintelligible] role in trying to help small businesses. In the meantime, we talk about federal agencies. I refer to them as the offensive linemen of government. What I mean by that is you don't hear their names until the commit a penalty. Every coach will tell you that you cannot have a successful team unless you have good offensive linemen, so the offensive linemen that have appeared with us today, and have not introduced themselves, we're going to start here. First of all, introduce Tom Hicks [phonetic]. Actually, Tom is with the Department of Labor, and Tom's been at more of these meetings than I have, so Tom's been a great friend. Brad gave us his name last year, got an award from our office, for being one of the best advocates of the federal agencies for helping small businesses. I'm going to start Tom, and when he introduces himself we'll have the rest of the federal agencies do it right after that.

MR. HICKS: Thank you, Michael. I'm the tight-end on the line.

[Laughter]

MR. HICKS: Good afternoon. My name is Thomas Hicks. I work at the US Department of Labor, Washington. I'm in charge of the Small Business and Regulatory Flexibility Act (SBREFA) compliance system support unit within the Department of Labor. I have Domonique Smith who's from within my unit, an officer on this program also. Our job in working with the five federal enforcement agencies for the Department of Labor is to coordinate the SBREFA activities within the department. If you file a comment with regards to a Department of Labor enforcement action, it comes to our office, we review it, the assistance secretary within that agency requests a response back, we review the response, and it goes back to the Ombudsman's office.

Within the Department of Labor there are five major enforcement agencies. There OSHA, the occupational safety and health administration; there's the Wage and Hour Division; there's MSHA that deals with mine safety and health; there's ETA, the employment training administration, and fiscals [phonetic] benefits security administration.

My job here today is to listen, to hear what you have to say if you've got a concern with the Department of Labor. I want you to feel free to express your opinions and your issues. If you have a concern that you want to talk with me and Domonique after the meeting, feel free to do so also. We're glad to be here [Unintelligible] of course we look forward to the hearing and your comments. Thank you.

[Spanish audio]

MALE VOICE: Stand on up and introduce yourself.

GARY: I'm Gary Knott [phonetic] with the IRS Tax Payer Advocate's Office. The Tax Payer Advocate's Office is to help taxpayers who have problems with the [unintelligible] IRS. We have small business issues that we deal with every day, things like penalties, and things like regulations. We also are active trying to get problems corrected, processes, and also legislative problems. We also have another section dedicated to education.

FEMALE VOICE: [Unintelligible] of communications and our mission now is to put out the education materials that help the small business entrepreneurs, small-business people so that they can follow and keep compliant with the tax laws before there is any trouble. We are working also [background noise]. It's a great program. If anybody hasn't used it, there's a lot of information on IRS.gov. So go look at that Website because it's really, really very helpful.

MICHAEL: I actually want to complement the IRS. We talked about that \$1 billion that was saved. The IRS was a big part of those savings. They really have changed their whole culture over there, and just to kind of give a little plug for them is that two years ago I was invited to go visit the IRS. I was already with the [phonetic] government, but notwithstanding that [phonetic] if you're invited to the IRS in Washington DC you might not think that was going to be a pleasant experience. But as I went over there and I met with all their tax payer education, they really are committed to make it easier for small businesses to do business. They still got to collect taxes but there are a lot of things out there that they want to give to small businesses and promote to help make it easier for small businesses.

Any other agencies?

MR. MILLER: I'm Eric Miller [phonetic], and I work with the Federal Communications Commission in the Small Business Office. I'd like to thank the administrator, of course, the national Ombudsman, and especially Mr. Peter Soren [phonetic] here, a senior advisor with whom we work very closely. We have an enforcement bureau [unintelligible] information and we have a Website, FCC.gov. Today, I just wanted to mention that we have a compliance program. It's fairly new. We're putting out small guides on the regulations and rules. We're putting out guides just to describe for small businesses what they must do under regulations. It's key just to small businesses. I've brought a copy of one of the samples. This program started in the last two months. Thank you very much.

MR. MONTANEZ: My name is Gaspar Montanez and I'm district director with the Wage and Hour Division of the Department of Labor, stationed here in Phoenix. We enforce the [unintelligible]

Standards Act [unintelligible] overtime [unintelligible] medical newsletter and we also deal with [unintelligible] and production. We also enforce [unintelligible] Protection Act. We have a Website [unintelligible] is doing a great job enforcing the compliance of the program, and has created a Website with a lot of information. You can go ahead and download information to do with compliance. The Website for us [unintelligible]. gov.com. And if you have any questions about [unintelligible] changes that on the 541 [phonetic] procedures that we had here recently then I'll be back to answer questions later on.

MICHAEL: Thank you. We'll go this side and come back this side, okay?

MS. CARAHER: I'm Pauline Caraher. I'm with Federal OSHA, and we're under the Department of Labor, and we have a lot of programs for small businesses. When we inspect small businesses they get a big reduction in penalties just because they are very small, so if you have less than 20 employees, then 60% of the basic penalty which is very low. Other things we have, consultation [phonetic] services also with the state and Federal OSHA to help small businesses come into compliance.

MICHAEL: That's important, she said under 20 employees. Now with 99% of all employers, Mom and Pop type employers, under 20 employees, that's huge, so those of you who represent, maybe, organizations, be sure and let us know about these particular things. On this side?

MS. MARSHALL: I'm Elizabeth Marshall. I'm with United States DA [phonetic] in Washington DC in the Office of Enforcement. It's actually the Office of Enforcement and Compliance Assistance because in that office we do both enforcement of the 70 environmental laws that Congress has enacted but we also have a significant element of work consisting of how to comply with these laws. We have Web-based information, we have information clearing houses, and we have sector-based information on how to comply. Environmental laws can be intricate and we're making great efforts to take a look at that. Some of these are [unintelligible]. On the enforcement side, we also put a business team [phonetic] on the penalties because for each of the major environmental laws that we enforce, you all may not realize but when we do come knocking on the door, that under our internal policies, we do give significant penalty reductions to small businesses because [unintelligible] is not in the business of [background noise] and we are looking to [background noise] problems are in terms of technical compliance and also on the financial side of things.

I have with me here Wienke Tax who's in our Tucson office, and is most familiar with local issues. I would just say in closing is that the perception, there is sometimes a misconception we all [unintelligible] environmental laws are the states', we delegated the authority to the

state to carry them out and to enforce them, so sometimes separating what is the federal action from what is the state one is a little complex. We are also working with the state to improve their efforts to do outreach and compliance assistance particularly targeted towards small businesses.

MICHAEL: Thank you. Any other agencies?

MS. BUCK: I'm Cindy Buck; I'm with the United States Department of Agriculture, Food Safety, and Inspection Services. My office here is in Phoenix. Our office, part of what we do is assist small businesses and very small businesses in obtaining the resources and helping to identify the [background noise] necessary to comply with the regulations and to conduct their entire business through the food safety systems that they're required to implement. We assist in helping the plant with the development and implementation of the entire food safety system. We also have a Website, FSIS.USDA.gov. There is a small and very small plant outreach program there to help identify the resources and put people in touch with their state representatives who can further assist them to gather that information.

MICHAEL: Thank you. Any others?

FEMALE VOICE: I'm with the US Department of Trade Information, the EOC. We enforce anti-discrimination laws as they apply to employment. One of the misconceptions small businesses often have is that "Well I don't have 15 or more employees therefore I don't have to worry about it." But there's still anti-discrimination laws apply to you if you have one employee. I'm your representative [unintelligible] office. I'm your contact person, and if you are an employer one of the things we can do is I really focus on the prevention end. If you want us to come out and talk to you [background noise] we have lots of other services available, I'm not going to bore you with all of them right now. The only materials I brought with me today are my business cards. I'd be more than happy to give them out to you. [Unintelligible] monthly newsletter to help small businesses and a lot of other things, so if you're interested I'll be here.

MS. ARANDA: My name is Lydia and I'm director of Small Business Services for the state of Arizona through the Arizona Department of Commerce, and also working with the governor's office as the governor's small business advocate. I just wanted to briefly say thank you again to administration, ombudsperson, and director and everybody who's here today focusing on these issues with small business, and also to let you know that in addition to our office and the issues that we work to be an information resource [unintelligible] give to the community and to the small business [unintelligible] and also back into the state government. There is also, as you may have heard, a recent reinstatement of the governor's Council on Small Business. Our new Website is up. It comes out of the governor's home page

[background noise] many issues that they are focusing on at the top are the health care issue and the regulation or licensing kind of impact on small businesses. I'm very pleased that we are working in concert with what all the focuses are, and here to serve you in that. Thank you.

MICHAEL: I just want to mention... oh, is there someone else back there?

MR. PAYNE: Jim Payne with the USDA Forest Service. I'm here basically as an observer to your comments and issues you come up with as a small business with timber sales and wild land firefighting. We have 11.2 million acres of national forest here in Arizona, and we're depending on start-up small businesses [unintelligible].

MICHAEL: Thank you. Before I get the program started I do want to make... oh we got..

MS. BARTHE: Maryah Barther for US Customs [unintelligible]. Our mission is to prevent [inaudible] while at the same time trying to protect legitimate trade [inaudible]. We've a wonderful Website cbc.gov [phonetic].

MICHAEL: Thank you. Any others? Okay, I'm saved [phonetic]. I'm going to mention someone here, he's Franklin Ballesteros [phonetic]. He is a former [unintelligible] here. Frank, could probably tell you, when we got this started a couple of years ago, you would not have seen all these federal agencies here. They are not forced to be here. They're here voluntarily to tell you about the compliance assistance that they have, and it's just been a total culture change since we started a couple of years ago, and it's all based on what the president wanted. He wanted to change the culture of being more a citizen-center and for us to focus on the small business rather than focus so much on the penalty stage, but focus on the help you stage. I'm going to acknowledge Frank for being here, and Frank you might even say a couple of words about how it's changed here in the last [unintelligible].

MR. BALLESTEROS: Thank you, it's certainly a pleasure to be here. I'm looking forward to that, because this is the best thing that could have happened to any small business, have the opportunity to talk to any federal agency, to complain about anything that they might be doing wrong to you. That panel out there, the board, the chairman, certainly the administrator, is all open ears. When I was out there in that board, believe me, we were open ears. We were struggling to make sure that businesses were not afraid to come and talk to us about any issue that affects their small business, and that's what this agency is for. I commend you. In my three years that I was up there with you folks [background noise].

MICHAEL: We're going to get this program started. I can't sit and do this thing, but I'm going to turn over to Bob while I'm walking

down.

BOB: Ladies and gentlemen, I want to recognize Michael Hull who is our regional advocate. Michael is you would raise your hand so we would know were you are. [Background noise] for the use of this facility, it's great, we really appreciate it. Thank you very much.

MICHAEL: As I'm walking around I'll speak loud so you can hear me. If you can't hear me let me know. If I speak too fast slow me down. When I was an attorney, the judge would tell me slow down, and I thought I can't help myself I'm Latin.

[Laughter]

MICHAEL: So if I do speak too fast just tell me and I'll slow down. Okay, what is the Ombudsman's office. It starts with leadership and we are led by the president who understands small business because he used to be a small business owner. In fact, and those of you who have seen the latest State of the Union address, in the last State of the Union, he mentioned small business no less than six times. Never been done before. In fact, any speech he's talked about, how many times have you heard him talk about small business? He doesn't just talk about words. He has results. And he has all the federal government on a results-oriented type of program. We want to see what works, and you've go to measure it and make sure they work. In the end, he wants to create that environment where you can be successful.

Also you have your advocate which is the administrator who also knows small business. He grew up in small business. We're going to have some special guests here today, and in fact his father was the founder of the United States Hispanic Chamber of Commerce. And that's been a small business organization that's been around for 25 years, in fact just celebrated the 25th anniversary. But he grew up around small business. And when you grow up around small business you know that when you guys change those light-bulbs that's costing money. You know when your boys take those paperclips that are your money. So these things are important because you understand that. Having someone like the president, many people ask him what have you done for small business. One of the first things he did was appoint a small businessman to lead the Small Business Administration, and that's been a big change. Ask any of the small business employees and they'll say there's been a big change there.

Now one thing that we did when I first came in was we figured how we were going to get this program known. In fact, I introduced the Ombudsman's office to a lot of employees at the SBA. Once they knew, we eventually started going out to trade associations letting people know that we are here to help you. I know you've heard that before, of government employees, we're here to help, but we really are. We really want to hear from you. We're almost like the Jerry Maguire of federal agencies. You've got to help us help you. You've got to let

us know what's going on so we can actually help you and help you get your particular situations resolved.

[Unintelligible] the national Ombudsman's office. We want to seek and foster a more small business-friendly federal regulatory-enforcement environment. We want to save business their two best resources, their time and money. At \$7,000 per year per employee that we can help save you, that's money that you can put into getting health insurance. That's money you can use to improve your facilities, to train your employees. That time spent could be time to train your employees, spend it with your customers. And even that money you can use to put in your pocket. It's okay.

SBREFA, you've heard that term a lot, and I've learned that Washington DC is the acronym capital of the world. It's not just the capital of the United States, it is the acronym capital of the world. SBREFA, the Small Business Regulatory Enforcement And Fairness Act, and what that act does is require the federal agency to consider the fairness of the regulatory enforcement actions taken against small business. It also provides a very new process for the small business owners and establishes 10 small business regulatory fairness boards.

Now what are these fairness boards. These are not federal employees. These are actually small business people like yourselves. In this region, the fairness board includes, the federal agencies are divided into 10 regions. Here it's California, Hawaii, Nevada, and Arizona, so we try to get a small business person from each of these states, we have a couple here today, I'm going to introduce them, and let them tell you about what this program has been and how it works for them. Kim.

MS. KING: Thank you, I have been on this board for about six months now and I've seen several people who have had the opportunity to come forward and address their concerns and issues with the federal government in a non-threatening manner. I know a lot of people are kind of afraid to bring up issues that they have, and there's just been an excellent opportunity, and excellent venue for people to open their mouths and not be penalized as much and able to speak freely. I've enjoyed it very much and it's given me an insight into how the government operates.

MICHAEL: And Kim is from probably one of the most regulated cities for small business around, and that's San Francisco. We also have Barry Gold [phonetic] who is the chair of this region.

MR. GOLD: I've been on it for two or three years now, and watching problems get resolved at these functions, where people go after the meeting outside, and issues that have been laying on small business owners get resolved at these meetings, and sometimes, as I said, right on the spot. That's the most important thing. Actually, if we're doing our job, maybe we'll be putting ourselves out of business.

Wouldn't that be wonderful? The more these things get resolved for small business the better.

[Background noise]

[Laughter]

MICHAEL: Here's what we do. Again, we have to publish [phonetic] these small businesses and the federal agencies. We do this, and the way we do this is we conduct hearing all over the country. We've been in 44 states in the last three years, everywhere from Portland, Oregon to Portland, Maine, Alaska to southern Florida. We've been everywhere in between. Wichita, Kansas, Arkansas, West Virginia, because it's so important that we don't go to the spots where everybody wants us to go to, like Phoenix, which is a great place to come to. Actually, it's my first time here in Phoenix, and I'm so glad to be here. It's important that we hear from small business all over. The reason is something that may be happening in Phoenix may be happening in Portland, Oregon, or may be happening in Alaska, and so when we see those types of trends we know there is something going on here that we need to bring to the attention of the officials at Washington DC.

Our leverage is that we write a report to Congress each year. And in this report to Congress, we grade the federal agencies on certain things that they have to comply it. They have people watching over them also. The way it's done, and we just wrote our last report. You want to hold that report up? Our last report, this is our grading process of the federal agencies for the year 2003. If anybody wants to see that just go to our Website which is www.sba.gov. When you deal with the government it's always known as .gov. After the .gov go forward slash Ombudsman. And on that you'll be able to see the way people testified in the past, and you'll also be able to download this report. We took it to every single member of Congress. So your Congress representatives here have this report. Ask them about it. If you need a copy, go online or if you need us to send you one, please let us know.

What are the things we grade them on? One of the first things we heard from small businesses was that many of them were afraid to tell us their story. Frank will tell you that. We couldn't get anybody to testify because they were afraid what would happen to them if they did. That just isn't right. We work for you. Your customers have got to feel comfortable telling you when you're not doing something right, whether you're wrong or not. You've got to feel comfortable telling it. No one should feel intimidated by the fact that they are afraid what will happen to them by testifying, so one thing we did, when we got started, only one federal agency had a small business non-retaliation policy. 30 of them have it today. That's one of the things we grade them on. That's helped to change that culture.

Another thing that we grade them on is whether or not they

attend hearings. You saw the folks that attended the hearing here. That's so important. They're all going to get As for this hearing. Another thing we grade them on is how quickly they respond to your comments. You know, they can't just follow a comment they get and never respond to you. We grade them how long it takes them to respond, and it's got to be a quality response. You can't just give a bureaucratic response that they send to everybody. It's got to be something that we know they looked at, because we will look at every single one of your responses back to you.

We also grade them on what they're doing on compliance assistance. You can't just have pamphlets and have them sit in Washington DC and not get out to everybody. We want to see how they're outreaching to you, to make sure they're helping you come to compliance before you get into any kind of trouble.

We can help you three ways. First of all, you've got to be a small business. If you are a large corporation, we can't help you. Your comment has to be directly related to a federal agency. If it's a state agency or local, we don't have the jurisdiction to do anything about that, but I'm still glad to see someone here from the state of Arizona. If you have some issues with Arizona, they're here.

[Laughter]

MICHAEL: But seriously, we have no jurisdiction to go to a state and tell them what to do, a state agency, but that's why we want to be sure and focused that we help you with the federal agencies, and it has to be related to a federal compliance issue. Compliance issues include repetitive audits or investigations, excessive or unfair fines or penalties, threats or actual retaliation by a federal employee.

Here's our form. One of the things that the administrator asks us to do is go to every single department within the SBA, how difficult are your forms to fill out? When you look at ours, ours is a one-page form, it will take you no more than five or 10 minutes to fill it out. We need that form in order for us to proceed on your behalf. Basically, it's our permission to proceed on your behalf. Basically, we ask for your name, address, your contact, what agency do you have a situation with, what result would you like to see, and if you have any backup information you can provide us, you can submit that and it can all be done online. Just as an aside, anybody who wants to do federal contracting, anybody here knows about the 8(a) program. You'll all be happy to hear this. The 8(a) program is now going online. So be sure to talk to your local SBA office, and for those of you who do not know the 8(a) program, it's basically a federal certification with contracts. It used be that the thing would be like two phone booths thick, now it's online it's going to save so much time for small business. That's what we're all about, trying to save you time and money.

[Unintelligible] You can fully disclose it to the public, and if

you are testifying here today this is a public hearing so you're disclosing it to the public, so when you're filling out your form be sure to tell us the parts you have publicly delineated, or you can actually keep it to just the Ombudsman's office, and we'll black out your name, we'll black out your address, and we'll [unintelligible] this federal agency. But I'll got to tell something, if you do it that way which is fine, we encourage that, it's going to be difficult for that federal agency to assist you. They don't know where the comment is coming from, or who it is. It's going to be very difficult for them to address that particular situation.

Okay, here's what we have. We don't have the statutory authority to do, to change, stop, or delay, a federal enforcement action, but by the fact that you fought a lot of the times it has happened. We have changed it, we have stopped it, and we have delayed it. We just don't have the statutory authority to make them do that. We don't have the authority to solicit comments of a non-federal regulatory nature. We don't help secure government contracts. We have another department within the SBA to do that. Power to appeal the comment; we can send it to our government contracting people and they can see what they can do with this issue. We cannot help assist in government loan processing or approval. The bottom one is very important. Although I'm a recovering attorney, I'm not your attorney, and that's really important to realize. I cannot give you legal advice or ruling. For those of you who are involved in litigation, you should probably consult your attorney before you consult with us because what you need to realize is you give us information or send us information you may be hurting your discovery process. You open up your discovery, so if you are involved with litigation, be sure and consult with your attorney first.

A couple of hints. Follow written comment, because when you testify here today, we're going to make notes and we're going to have it recorded. But while technology is great, you can't always count on it, and sometimes when people speak the translation is kind of difficult to understand, so if you have a written testimony it helps you, because we can send that directly to the agency and it saves a lot of time. It takes about 60 days to translate this stuff and transcribe it in order to get to federal agencies, so if you've got a written testimony it's going to save you a couple of months.

Allow full disclosure as much as possible by specific names, dates, locations, and the details of the result that you are seeking. We don't want legal briefs or court papers, because you've got to realize there're 25 million small businesses out there, we don't have that much space. We really don't have the resources to read all those papers, so try and keep it concise if you can.

Again, if you are in litigation, please consult your attorney first. Again, your regional people, we have Patricia [Unintelligible] from

Hawaii, Bobby Gore, he's from Nevada. Barry Gold is from California. Kim is from California, and we are always seeking new [unintelligible] members, so if anyone is here in Arizona and would be interested, let us know, and Peter is really going to be your contact. Before I go on, why don't we have Peter stand up? Peter is the senior advisor to my office and he takes a lot of comments and will talk to you personally. Since I travel so much, I need someone in my office that will actually take your comments and listen to you. He's very good about that and thanks you for all he's done.

[Crosstalk]

Actually, you can call the Ombudsman's office which is 2022052417 and [unintelligible] firstname.last name@SBA. So it's Peter.Thorne [phonetic]@SBA.gov.

Peter's done his time where [background noise]. They talk to small businesses personally [background noise] and they provide a lot of the input for these annual reports.

Now we talked about all of these things. What are the results? Here are some new results that we had that were able to help small businesses. IRS refunded \$1,200 to a small dental center in Vernon, Missouri. DTA we wrote a form [phonetic] letter in response to a comment [unintelligible] in Idaho, which helped hundreds and hundreds of small scope manufacturers. Custom reversed the decision and they put all the fines and penalties to terminal shipping [phonetic] in Baltimore, Maryland. DOL, this is one of my favorite's ones, and is actually one of our first success stories, and Tom was very, very helpful in this. There was a small restaurant [unintelligible] that there was a dispute whether their employees were hourly or salary. The Wage and Hour Division felt they should be hourly, and there was dispute over how much overtime should be paid, whether there were penalties that should be assessed against them, and they spent \$7,000 with their attorneys trying to contest it. Their Congressman phoned our office, contacted us, we got that information to Tom, and they turned it around in 30 days. We basically burst it [phonetic] where both parties were very happy with the results.

A couple of Websites. I always thought that a small business person would come up with their name and their Website page, but this is a helpful Website for you. FDA.gov. Now any of those who have not looked at the FDA Website, you should. We're getting about 1.2 million hits a week, Hector. Many people ask me who is going to your Website. I say that's your competition, because on that Website there's information on how to write a business plan, information about our loan program, information about a government contracting program, our office is one there, there is a lot of great information on small business, and it's also in Spanish now, Negocial.gov [phonetic]. So if you want to know how to run a small business, how to get started, if you got

some friends that need help, direct them to the FDA Website. Businesslaw.gov is a good Website, because on that Website you'll be able to learn about not only federal regulations but state regulations that are very, very, that can affect small business. We also have our compliance assistance on the bottom there under the small [unintelligible]. You can go to any federal agency and find out what kind of compliance assistance they have. You can put a query in there and it will direct you to who you need to go to.

Thank you. That's the information we'll leave up there as far as the telephone numbers and our mail and how to contact.

Okay, a couple of ground rules. We're going to have everybody testify here. We're going to limit you to five minutes. That may not seem a long time, but it really is plenty of time. Within your testimony [unintelligible] I really want you to get into the meat which you're going to testify about, tell us your name, the business that you represent, and then get right into the testimony. That would be better for you because we've got 12 people who are going to testify here today, we want to give everybody a fair chance. Also, if we have any time after you've testified, we may have the federal agency if they are here discuss your situation with you outside when you come back in. So we're going to get started. Any questions? Okay.

[Long pause]

Is there anyone here would prefer to listen to this in Spanish? We have it available. We have one person who is going to testify in Spanish and we will have someone translate as it goes along. But we'll go and get started. We have Miss Laurel Brodie.

MS. BRODIE: You picked a real Mom and Pop operator here. We literally are myself and my husband. We have a company called Clear Skies and we have a four-year-old daughter so we're Mom and Pop. It's hard to do this in five minutes, I don't know where to start.

We have a small manufacturing company. My husband patented a product that he bought solar panels for a fuel storage system, an above-ground fuel storage tank, and we literally do this in our garage. It is a secondary business for us and one that we had hoped someday would be our main business if we could make it successful, but that's a long road. We are a member of an international organization, we've done some trade shows. Through that I had a contact long-time with someone in Kenya, Africa who in January 2003 contacted us about a customer they got, and they wanted to purchase a system from us. We made all of the things back and forth, all of the arrangements with them and such, this would have been our second export as a company. We have been in business since 1995 incorporated, and the one thing that I did know was get your money up-front, and so in that profit they are a distributor in Kenya, Africa, and they decided to have their customer pay us directly. Probably two weeks prior to the export, I found that

the name of the customer was Moho Energy [phonetic] of Sudan. Sorry, I have, at that point, a two-year old. Sudan meant nothing to me, and I was using a licensed freight-forwarder who was doing all of the paperwork and things that I had gotten from government Websites telling me that if you are a small business and you are exporting and you need to use a licensed freight-forwarder, they know what they're doing. So they were familiar with the Sudan aspect of things. Sudan paid us, they did the wire transfer. The invoice signee then became the Sudan company. To my knowledge this shipment was still never going to Sudan, it was going to Uganda, but the way it was addressed I understand that it could look that it was going to Sudan. I'm not going to even argue that point because even if it was, I guess I wouldn't have known the difference

So, a long story short if I can do it is, the freight-forwarder took the shipment to California to be put on a plane, Lufthansa stopped the shipment saying we don't do things with Sudan, there are trade restrictions. I got a phone call on a holiday, I think it was February 18, telling me that the shipment was going to be stopped. The freight-forwarder told me this, and that's all he told me. They advised me on nothing else. My own research in the next couple of days, because of the holidays and snowstorms in Washington, led me through the local Department of Commerce here, which was very helpful to me, and they recommended to me that we contact an agency called OFAC, The Office of Foreign Assets Control, because we had likely broken some trade restriction regulations. I got a hold of OFAC that week. They advised me to send them a letter, telling them the circumstances. They did not tell me that that letter would be my defense at one point later in time, they just wanted a letter with the circumstances, and they were going to determine whether we could return the money in the wire-transfer, because if they were government tenders they wouldn't [phonetic] be able to take the money. So they got back to me within four days telling me to go ahead and return the money which we did. In July of that year, we received a phone call telling us that we were being [unintelligible] a civil penalty of \$7,000 and some hundred dollars, I've got all that in my paperwork, which is the full amount of the transaction and would have included the merchandise, the crating, the insurance, the freight everything, and we were being fined that much.

They were giving us the opportunity to enter into an informal settlement if we so chose, but to do that they would not tell us how much may or may not be settled. They refused to give us anything in writing ever. I had one page. I had no idea at that time what we supposedly did or did not do, what law we were breaking of any kind. I told them that this would likely put us out of business. They told us that they could come after us personally, if that was the case that they would still come get the money. So we offered them a settlement

amount of zero, professed our innocence of the matter, and felt that we were being unfairly treated in this, and they came back and offered verbally a 75% reduction, brining it down to \$1,900, which might sound reasonable to some people but when you're Mom and Pop it's not, that's a lot of money. So Governor [Unintelligible] office has been helping me through this process, also Bruce Raden they've done a lot of work for us, and it was through his office that I found out that if we just did not respond to that informal settlement that it would finally go through a penalty procedure where they would actually give me something in writing for the first time, and at that point, I thought, we were going to have the opportunity to discuss things with this office. That has never happened. It's always been through correspondence, it's never been timely. They very rarely got back to me, it's usually within six to seven months. They, I don't believe, have ever dealt with small businesses, because when I look at their Website, all the signs that they show assess are either large corporations or companies that do exporting for a living. We don't do that, and the circumstances that this shipment never left the country gets to [unintelligible] accepted in the fine on this.

I believe their limit is \$11,000 and that would be if it was a zillion dollar shipment. That would be the maximum fine there could be, and here I am with a \$7,000 shipment and I'm being fined, the maximum amount is where they're starting, and I find that to be unfair. I don't know if I got an order, and I don't know were else to go with that, we've had a lot of conversations. The Department of Commerce, the local Department of Commerce have also been helpful and I requested that OFAC speak with them before they made their decisions, and OFAC spoke with them and essentially, my understanding of the conversation was they were told to stay out of it.

MICHAEL: Okay, what we'll do is this. These are the types of issues that we need to present. [Unintelligible] and you told them about it they probably would never have found out. So we'll send that, actually, it still amazes me how I stood here about an agency that I've never heard of before, and I've been to government for three years.

MS. BRODIE: And I've been told by them that I should have known who they were. So I'm glad to hear that.

MICHAEL: S owe will get this, and we've got your comment, and I just kind of [unintelligible] the letter, and we'll send directly to them and they have to respond to us. So we'll get that and we'll get back with you on that, and please you keep bugging us still [phonetic]. Okay?

MS. BRODIE: Alright. Thank you very much for your time. I appreciate it.

MICHAEL: Thank you. Okay we have Joy Stavely?

MS. STAVELY: Thank you. I'm not coming before you today with a specific problem but more to give you a general sense of the kind of problem that we've been dealing with and hope that it might help others down the road. My husband and I have been in the recreation services business in northern Arizona. I'm from Flagstaff, and we have operated under both National Park Service and US Forest Service permits for over 30 years. While we love what we do, we would definitely not get involved in any government-agency controlled business going forward, and have recently sold one of our Forest Service permits because we could not longer tolerate treatment we received from the Forest Service. The people we dealt with had no concern whatsoever for our budgets or what was affordable. They showed little appreciation for the investments we did make and the time we spent improving our operations for the forest and park visitors.

Over the years, we have worked through our problems with sheer determination and perseverance and with the help of our legislators, both state and federal. There is not enough time today, nor is it our intention, to review all the inequities we have suffered over the years. But what I would like to do is review a couple of recent situations with you in the hopes that maybe other permittees in the future will be treated more professionally and fairly. So our gripe is with the Park Service and Forest Service and most specifically with the Forest Service.

A couple of examples. The Forest Service started a spot audit of our lodge and country store in September of 2003 and initially told us that they needed information from us right away. They always need everything with us straight away. Like the other lady who didn't get a response for six to seven months, that's nothing. That's about par for the course. We heard no more until February 2004, at which time Mary Noble [phonetic] the auditor contacted us again telling us that she had been detained by other projects but now she needed our information right away. We told her to send us a list of what she needed, but then we did not hear from her again until March of this year. In the interim, Mary broke numerous commitments to call us back and get this list to us. Finally on March 12, she called and said she had to complete our audit by April 7 because she had another project to do for the Forest Service. I reminded her again that if she would just get us a list of what she needed, we would do our very best to get everything to her. Because Mary delayed so often and so long, it was now into tax time and it was now going to cost us extra to impose on our CPA. But since our lodge was in escrow at the time, and we felt that not providing the audit information could hold up the closing, we got our CPA to agree to rush the project. We provided the requested information to requested information to Mary Noble three days after she sent us the list of requested items. It is now September 29, one year since the audit started, and we have heard nothing from Mary Noble. What's more,

Mary has failed to return numerous phone calls and e-mails from us and from our CPA. Not a very professional situation, I would say.

Our second issue that we'd like to mention to you regards our country store which we purchased in 1983 and operated under permit of the Forest Service. In 1990, we purchased the [unintelligible] unit [Unintelligible] lodge across the middle [phonetic] from the store. Rather than issue us a separate permit for the lodge the Forest Service asked us, for their convenience, to allow them to combine our lodge and store permits. The Forest Service said this would make their bookwork easier, so we agreed.

In June of this year, we sold our lodge but we kept our store. Rather than take the lodge out of the existing store permit, which included the store, the Forest Service decided against our request to cancel the existing permit altogether and re-issue a new permit for the store only. Now this would never have happened had we not agreed to allow the Forest Service for their convenience to combine the two permits.

Now having the Forest Service issue a new permit for the store was not, in and of itself, a problem. But in re-issuing a new permit for a property that we had owned for over 21 years, the Forest Service was now making us get an environmental inspection and prepare a site plan and development plan for our store. You have to remember, this is the store we have owned over the same Ma and Pa operation over 21 years. This cost us several thousand dollars to do, and all the service was doing was re-issuing a new store permit to the same people that have owned it for all this time. There was no change of ownership, no new development, no re-modeling, and nothing new happening on the site. Further, the Forest Service required that we make our store accessible. We indicated that in all the time we owned the store, no one from the Forest Service had indicated that our store was not accessible, and, in fact, we believe that it was because we have had folks using wheelchairs into our store, into our bathroom, we've never had a problem, so we believe that it was accessible.

When our renewed 30-year permit was issued to us on December 31, 1999, after going through literally 10 years of a planning process that cost us about \$100,000, no requirement was made of us of an environmental inspection or site plan for our store. There was for our lodge, because we were remodeling it and expanding it, but there wasn't for the store. We feel the Forest Service is abusing their authority now by requiring costly and time-consuming inspections and site plans for now sound reason. After all the building has been there for over 21 years, and we have operated under Forest Service permit for 21 years since 1983.

Regarding the accessibility, we explained that we felt that we did meet the requirements of title three [phonetic] of the ADA, but the

Forest Service said that we had to meet different standards relative to the federal government even though no mention was made of this requirement during the past 21 years until now. We then asked the Forest Service if they would be specific about what they felt we should do to make the store more accessible based upon their requirements because as far as we could tell we already complied.

I explained that our store only nets about \$30,000 per year not counting our home office salaries, and that we wanted to be sure we were not agreeing to something that was unaffordable. To date, no specific information has been provided to us. Since the Forest Service is making the requirement, shouldn't they know what they want. If they think something does not comply, why can't they tell us specifically what they want rather than having us wade through lengthy ADA documents that apparently have different requirements depending on whether you're private enterprise or federal government or sometimes combining them. We have not remodeled our store since 1983. It's a stone building, we have merely maintained it. The store is only open five-and-a-half months of the year providing groceries and gas to forest and park visitors. We have only one restroom installed. The store has a maximum of four employees. There are fully accessible bathrooms at the Kybad [phonetic] Lodge across the street from the store. What's more, we have never had to tune away a guest because they couldn't get into our bathrooms.

So it's obvious to us that the Forest Service does not know what's required but are instead putting the entire burden on us to figure something out and then present it to them. Those are my two examples, and they're only two, there are so many more over 30 years, but what I really hoped to do today was to present the kinds of problems to you that we have had over the years as perhaps a little education of that to you, to thank you so much for being here, and to let you know that I hope that I will be able to contact you after the fact separately if we don't get satisfaction on some of these issues going forward.

MICHAEL: We thank you. It's amazing to hear these stories. People again, this is why we do travel over the country to hear these things. What we try to focus on is although what you're telling us may be happening here and may not be necessarily be happening everywhere, but still we need to know what's happening here. What we found is that, when I first got into this job, and I was an attorney in Kansas City, they used to take us, to try and get a small business a liquor license it took us a year to get the answer yes or no. They would want something right away, but when we wanted something it would take forever to get an answer back, so that's something that we don't want happening with the federal government and we'll definitely get your comments to them. Again, just to set this in context, we don't necessarily get you the answer you want, but we will get you an answer. As the administrator said many times, small businesses love the

answer 'yes' to questions, don't like the answer 'no,' but the 'maybe's' will kill you, and we will get you an answer one way or the other.

MS. STAVELY: Why thank you, and I would add that it did take us 10 years to get a 30-year permit issued. My husband is now 73, I shouldn't tell you but I am now 56.

MALE VOICE: Good for him.

[Laughter]

MS. STAVELY: Thank you. But you know, now we're at the stage where we don't want to expand, we don't want to invest several million dollars to this project that we would have 10 years ago expanded, which is why we put that part of the business up for sale. But thank you all so much, I think what you're doing is wonderful, very, very needed, and I'm very appreciative that you exist.

MICHAEL: Be sure to get that comment to Peter. We can get that sent right away for him. Okay? Okay, we now have Neil Brewer [phonetic].

MR. BREWER: Thank you for your time. In 1998, I bought some timber sale [phonetic] down on the basin [unintelligible] district, and at this time the urban interface hadn't come into play. I purchased these timber sales to pay the government to buy the timber. [Unintelligible] small sawmill. The urban interface came into effect. I work a lot on the [unintelligible] reservation. That borders the [unintelligible] lakeside communities. I spent the last three years removing timber from that from that and some on private land and some forestry sales in the interface. Last week I was able to get one guy to take one of the timber sales. The Forest Service gave me an extension on it but the other one, I told them the cost of decent fuel at the time I bought that sale was under a dollar a gallon. It's \$2.13 a gallon now, and we don't have an infrastructure in it to take care of the timber. We are getting that underway right now. I asked the Forest Service for an extension on the control sale and they denied it. I work with Pam [Unintelligible], she's the forester, and I pleaded with her that I'd do the sale, I'd never defaulted on a sale, I'd do it but I've got to have more time because before they gave me the extension, when the first termination date came up they gave me an extension. In the contract on the urban interface, if you're doing an urban interface, if you're have a timber sale that's under contract, you can postpone this if you're actively working on the interface.

FEMALE VOICE: Excuse me, can you explain what a timber sale is, please? I don't think some of us realize.

MR. BREWER: Okay, that's where the government puts up a slot of timber to be utilized, and it's all small diameter trees. We don't do any saw log timber sales anymore, and what this is 16 inches and down. This is called a small diameter timber sale. And the control

road, it was hazard tree where people drive along the road too fast and they run into trees and hit the trees and then they sue the Forest Service because the trees were there.

[Laughter]

MALE VOICE: What has changed exactly?

MR. BREWER: My termination date expired last week. They would not give me an extension on the timber sale. They told me I'm going to be held accountable for penalties, damages, and whatever. They'll assess that and then they'll put that on me, but I can take care of what needs to be taken care of.

MALE VOICE: Do you have a paper trail, do you have documentation, your correspondence back and forth?

MR. BREWER: I think so. My wife keeps this on record.

MALE VOICE: When you submit your report, you want to put that in there, as much documentation as you can.

MR. BREWER: I can do that. I want the timer sale, they're going to take I away from me. I need the timber. We're putting our infrastructure in the saw mill, we've got a grant to put a saw mill in, and now they're going to take the timber sale away.

MALE VOICE: Well, believe it or not, the SBA actually has a timber sale program that I learned about. Be expecting a call from a David Loines [phonetic] and he knows about the timber sale program going on and he's worked with the SBA. Either him or Peter will be getting in contact with you, we have your comment here, but we'll also be sending it to Forestry also, so we'll get you some information on what's going on.

MR. BREWER: Okay. And next on the firefighting method, I spent 11 days on a [unintelligible]. We would have a pre-work meeting at 8 o'clock in the morning. At 11 o'clock we'd show up on the fire. Those who fought fire know what happens at 11 o'clock. Big plumes start. You can't control the fire. I looked on the south rim of the Grand Canyon in a fire, I can't remember what year that was, but we fought the fire at night when the fire was down, what they call laid down.

Right now, as far as I know, there is very little night fire fighting. The forest is my livelihood. We burned about 700,000 acres in Arizona in the last couple of years. We need more money to fight fires, we need to stop fighting fire and start doing prevention. We need to do clearing on the small diameter trees. I moved possibly [phonetic] three years ago 500 boats [phonetic]. Last year we moved 1,500 boats, this year we already moved about 2,500 truck loads of bio mass from the forest. The funding on these programs is important, and we want the government to try to continue to get money. Our national forests

are everybody's forests. From New York city to Florida and LA, everybody needs to pay to keep out forests clean. For the last 20 years we have neglected the forest. Environmentalists have totally shut us out of the forest. We don't have any infrastructure to take care of the wood. We need a 10-year contract from the government in Washington for big business to come in and drop \$25 million on an SOP board plan or something like this. We call on the government and all people to help us.

The cost of fuel right now, I don't know what we can do about that. I think we need to take some of the regulations away and become more independent so we can tell those people in the countries over there we don't know longer need your fuel and I think the fuel prices will come down. Let's open up Alaska, Wyoming, wherever, let's start doing whatever we need to do in America to provide the fuel that we need.

We need help to restore the forest. We call on the Forest Service to provide incentives and tax credit to help small producers. We don't have a infrastructure, we've got to have help.

MICHAEL: Thank you, Sir. I actually got a comment from the administrator on what you are addressing.

MALE VOICE: Sir, are you familiar with the Healthy Forest Initiative?

MR. BREWER: Yes.

MALE VOICE: What is your sense of that? That is legislation that was passed, obviously the president was very supportive of it. Has that provided any relief to you and the folks in your industry?

MR. BREWER: This year, the Three Forks burned here in Arizona. People might know it, it was one of the bigger fires. I just talked to the Forest Service guy on Monday, and asked him "Are you going to do anything with that timber?" He said, "We don't have any help, we need more help. We can't even keep up with the clearing projects." Under the Healthy Forest Initiative, they can [unintelligible], I think, 200 acres of timber just outright right over the [unintelligible]. He said 'why put it up if the environmentalists are going to stop it? We just waste time.' I'm not sure how much logging is there, I believe there are 5 million feet of timber is going to go to waste. My son bought a timber sale on the rodeo [unintelligible]. The environmentalists kept us locked up in court for two years. Now that timber, most of it is no good. We had over 60 million board feet of timber in the White Mountain area that went to waste.

MALE VOICE: I'm not an expert on this, and we'll definitely submit the comment in there. The whole idea of the Healthy Forest Initiative is if you don't do some of the prevention, you lose the forest, it creates huge ecological problems, so I would think that people that

are concerned about the environment want to make sure that the forests are healthy. What has happened to us over the years, as those forests have grown and grown and grown, they have actually become high-risk areas. One of the things my department does as well is we provide the disaster [unintelligible]. Last year we spent hundreds of millions of dollars because of the forest fires in California, so you know, that's one of the concepts of the Healthy Forest Initiative, that's legislation that has passed, and that has to be implemented because that's law.

You mentioned a couple of other things. One is the energy bill. Just so that you know, we're in total agreement with this. The energy bill includes conservation, it includes ecology, it includes exploration, and the problem is it has not passed the Senate. My understanding is that the House of Representatives have taken this up a couple of times, they just can't get it to move. A part of that, and to be perfectly honest with you, is that it is an election year, so you're not going to see any new legislation year, but I want you to know the top priorities of the administration. A lot of these issues as well, we'll deal with it internally on the regulatory side, but you all have a very important opportunity and responsibility to make sure that you're communicating with your elected officials as well. You tell your congressmen and senators that we got to have an energy bill. You tell them to implement the Healthy Forest Initiative, and our job is to make sure that government is doing their job, that's what we're doing. The feedback is very helpful, and I'll assure you that we will communicate this back to all of the relevant departments and agencies. Thank you, Sir.

MR. BREWER: Thank you for your time.

MICHAEL: Mr. Pat Schwind. And we need to kind of keep to that five minute because we have a lot of people who want to testify.

MR. SCHWIND: Everybody probably had 10 minutes and I hope that I'm not going to be the first casualty.

MICHAEL: I understand that, but we're going to cut it down to five, because we've got seven or eight people who want to testify today.

MR. SCHWIND: Pardon me for feeling a little short-changed by that, given the fact that because of an unfair government regulation in the last year I have spent 200 wasted hours plus \$16,000 in expenses, plus lost \$20,000 of income because of the unfairness of the [Unintelligible] Act.

MICHAEL: Sir, if you wouldn't mind, you need to speak into the mic, so that the microphone that we have for the recorder will pick you up.

MR. SCHWIND: Yes Sir. I'm Pat Schwind, I'm in the mortgage business. Frankly, my life was great up until this year. I had the best year of my life last year, and then because of some frivolous

law suits this year is probably going to be worst year of my life. This paperwork that you see right here, this represents one law suit regarding one piece of paper that I faxed to a person that was introduced to me personally. That piece of fax paper was found by a person who was not associated with the business I was sending the fax to, didn't have the same fax number, and was not even in the same area code. That person lied and said that I sent him personally 10 pieces of fax paper. I sent no pieces of fax paper to that individual. The individual I had sent a fax to was gone. The company he worked for was defunct. The person that found this piece of fax paper lied and said I said 10 pieces of fax paper and sued me for \$10,000. I spent \$10,000 and went through 100 hours of pure hell defending myself. At court, at trial, the person who sued me provided no proof whatsoever that they were associated with the fax machine that I had sent the fax to. They provided no advertising, business cards, letterheads, or promotional material that showed that they ever had that fax number whatsoever. They provided no proof whatsoever that there was a connection between them and the person who was the specific main recipient of my fax. The judge, who was a temporary pro-town [phonetic] fill-in for the real judge said, 'well, Mr. Schwind, you didn't have a tight business relationship with this person that was getting your fax. Therefore, you shouldn't be sending faxes to people like that in the first place. Therefore, you lose, give the guy \$500 for the piece of fax paper that he found, and you don't get back your attorney fees which were \$9,500.' All of this. That was for one piece of paper.

I'm involved now in two other lawsuits. One of them is represented by this paper work right here; this is another law suit. In this lawsuit, an attorney wants \$22,500 for 15 pieces of fax paper that were received at six different companies. The people who were getting my faxes, I know these people. I have received statements from five of the six recipients stating that they had no idea that I was being sued, or that they had no idea that I was going to get anything other than a small fine for sending a piece of fax paper. That law suit represented by these pieces of paper has cost me almost \$4,000 so far this year. I have another one. By the way, this is not my normal briefcase. This is what I have to carry around when I have to explain situations like this. This paper work right here represents the receipt of 12 pieces of fax paper. The demand for that situation is almost \$10,000. This has cost me over \$2,000 defending myself so far.

The people that got my faxes in most cases are people that I know personally. I've been in the Valley 26 years. Everybody that gets a fax from me is somebody I know personally, I've been introduced to them personally, I know them through the chamber the ASBA somehow. I have never bought a list. Every piece of fax paper that I send out goes to a specific named individual that I know. Sometimes, the people that get my fax, or are supposed to get my fax,

don't get them because some office manager or fax Nazi throws them in the trashcan before they ever have a chance to get to the actual recipient. So sometimes the people that are supposed to get my fax really can't remember that we met some place, they called me, we were introduced somehow, and I have to prove, I have to go through hours and hours and hours of proving that I'm entitled to send them some information. Sometimes, because of my database, the size of my database, and the amount of time that has elapsed since we first met or talked, sometimes I can't find the original contact information, and then I'm in danger of having to pay a fine. The Telephone [phonetic] Consumer Protection Act 1991 is, as far as I'm concerned, one of the those unfair regulations that has even been implemented in America. In the slide presentation, one of the slides said that there is, the Act, the Small Business Paper Work Reduction Act, or whatever it was of 1996, said that small businesses are not supposed to be burdened by unfair regulation. They're supposed to be consulted. I can't imagine anybody that markets through faxes or whatever I do, was ever consulted about the unfair nature of this Act.

In the handouts that I gave to you, I have provided a copy of an article from July which states that for one piece of fax paper I paid \$10,000. I provided copies of the last two faxes that I sent out from August and November of last year. My business has effectively been shut down because that's how I marketed my business. I had a great year last year, I had many good years, and frankly this year I made less than \$20,000 this year and I spent \$16,000 on law suits, so when you consider taxes, I have brought home about \$14,000 this year. I spent \$16,000 on very unfair lawsuits. In your package of materials, you'll see a three-page hand-out, which says problems with the TCPA and the FCC interpretation. I have diagramed eight very, very succinct problems with the TCPA, and again, I can't imagine that anybody involved with the regulatory process of the TCPA ever asked a small business person like me what the impact of this law suit would be.

There is a gentleman in this room right now, or at least I saw him earlier, Tom Fritt [phonetic] of the ASBA. He's quoted in this article that you see here, in the upper right-hand corner of that article.

MICHAEL: I think we kind of need to start to wrap it up.

MR. SCHWIND: To wrap it up, folks, I'm being screwed, glued, and tattooed something ferocious by the TCPA. This is tremendously unfair. It has ruined my business, and ruined my life. I never cheated anybody out of a dime in my life, and as Tom says this law has created a crew of ambulance-chaser type operations that go after people like me unfairly for just trying to make an honest buck.

MALE VOICE: Can I interrupt one second for a comment? There is an initiative on the California ballot due to the Trevor Log Group [phonetic], I believe. I don't know what the number of the

initiative is, but it's going to prohibit law firms from contacting a trade, pick on a particular trade, and find out something that they're doing against the law and then go ahead and file a law suit with the alternative of making a settlement, and they are actually suing on behalf of people who don't even know that they're being represented. So that's one thing that's being done right now, and I think that's going to pass. That particular thing, I'd be shocked if it didn't pass.

MR. SCHWIND: That brings up one very important point I forgot to mention, I'll make it very, very quick. Lawyers send out people they call fax brokers. They got out and they knock on door-to-door at offices. They say to receptionists or office managers, "Are you tired of getting faxes?" Well, of course, the receptionist says, "Well sure." The receptionist, very often, will sell a batch of faxes for a dollar of page, and all of a sudden people like me get served with a stack of paper that's three-quarters of an inch thick, where they want to see my tax returns, my business plan, anybody that I've faxed to, all other kinds of information, then we go through interrogatory, depositions, and discovery, and it literally ties you up in knots, and the person that was supposed to get the fax has no idea that this is even taking place. This is unbelievable that somebody like me or a small business person can be tied up in knots when the person that was suppose to be communicating with me has no idea that this is even happening in the first place, and the real culprits here are these attorneys and fax brokers that just try to tie up people like me and hope we're going to cry uncle.

[Crosstalk]

MICHAEL: We're up 10 minutes and we've got to get some other folks on. I have a couple of things. The first thing is, and I'm glad we've come to a good point here. We have the FCC. They're going to make a couple of comments when we're done here hopefully, but also we have again your regional advocate. This is here in Arizona. Mike Hull's office is the one that will work with you. In fact, his office works with small business organization. Obviously, they can't work with every single individual, but they work with organizations. The other thing that you'll find is that anytime, what I've often said is, be careful of what you ask the government to do, they just may do it. Because it happens that there are some people complaining that there's too many faxes coming for people, and they pass these laws that hurt a lot of people. There are a lot of these types of regulations and laws, whereas if something goes wrong someone gets hurt, and they ask Congress to fix it, well, you got to be careful of what you ask Congress to fix, or ask government to do because they may just do it without looking at the other impacts it may have. Also, this is a good transition. I'm going to [unintelligible] about it's in the law suit abuse you've been talking about. One thing you need to know is that you got to deal with your local bar associations, as far as these types of laws, as

far as how lawyers are doing. You guys deal with your local bar association because every state has control of their local bar association.

At this time I'm going to let the administrator in.

MALE VOICE: Just two very quick points. There are always countless regulations that are being proffered by government agencies, and there is a rule-making process before any agency makes any major change. They have to go public and get comments from both sides, and they use that information to factor in a final decision. I don't know if that ever happened in this case, I'm just telling you that when we ever want to do regulations at the SBA, believe me we hear from both sides and the process can take for up to a year or longer to change it. That's one. The second thing is I mentioned the small business agenda of the administration, and one of the things going forward is the elimination of frivolous lawsuits. In other words, what we are very clear about is that there are lawyers out there that shop verdicts. They go from one place to another to another until they find someone who agrees with them and gives them what they want. Well, one of the things that we're trying to get passed as federal law is that can't be done anymore. You got a major gripe; you have to go to a federal report to get relief on.

Now I will tell you that this is another one of those issues that the House of Representatives has taken up, they support it, they voted for it, the Senate hasn't, the Senate won't take it up. You can make your own assumptions of why the Senate won't take it up, but this is something that, on a going-forward basis, we're going to keep working on. In the meantime, we will definitely take all of the information that you gave us in making sure that we are getting you a proper answer on this.

MR. SCHWIND: Thank you.

MICHAEL: We've got Christopher Andrews.

[Crosstalk]

MALE VOICE: Excuse me, I think you wanted me to read number five?

MICHAEL: Let's get the people that are here. Because I want to get the people on first.

MR. ANDREWS: Hi, can I speak now?

MICHAEL: Yes.

MR. ANDREWS: My name is Chris Andrews. I'm the owner of Andrews Environmental Management. It's a small consultant firm in town here. I might try to read you some of these issues that we are dealing with on log, furniture and cabinet industries. They're really quite complex and it's very difficult to reduce this down but I'm going to do my best. So I'm going to read off some things that I can

[unintelligible]. First of all, I would like to say thank you to you Mr. Barreto and all the members of the regulatory [unintelligible] board for giving me the opportunity to discuss with you some serious concerns that I have and my clients have with regards to activity and actions by USEPA Region 9, and especially concerning the issuing of permits by the [Unintelligible] County Environment Services Department, the agency that truly administers the local air quality permitting activities. which is USEPA Region 9 located in San Francisco, California.

As I said the issues are really complex, and reducing this to several minutes is really difficult, and doing so I hope I do not make this more difficult, I hope I can simplify it so we all understand what I'm talking about. First of all, I am a small businessman. I've been running this business now for approximately 10 years. I used to be a regulator for approximately 20 years, and I am a chemical engineer. The paradox of my business is that my business and my competitors' business would not exist if we as a nation were not seriously addressing the improvement in the quality of air that we and our families take in every day. That quality is very important matter, I take it seriously, and my clients take it seriously. However, I no longer strongly believe that the laws and actions undertaken by USEPA Region 9 are performed with the purpose of cleaning the air, but for far less trivial concerns.

I believe Region 9 is directly aimed to severely damage the manufacturing sector, and we've lost millions of jobs now over the last several years for various reasons, outsourcing as well as a lot of other things, and I'm here to say that we're going to regret this day in the future or these times as manufacturing, especially small manufacturing disappears from our nation. The overwhelming majority of my clients are small businesses and small manufacturers. My clients include companies that manufacture kitchen cabinets, furniture, and cultured marble operations that produce kitchen sinks, tubs, and bathroom fixtures. The local homebuilders build the house, and my clients manufacture the components to install to be enjoyed by the new homeowner or as improvements to an existing home. My clients include Lott's Manufacturing [phonetic], Eagle Industries [phonetic], Woodstuff Manufacturing [phonetic], Canyon Manufacturing [phonetic], Woodpaste [phonetic] [unintelligible], Oakcrest Industries [phonetic], Legends Furniture [phonetic], Oasis Bedrooms [phonetic], New Directions, Pacific Designs, Marlam Industries [phonetic] and Ultra Installations [phonetic], Mastercraft [phonetic] and others. All of these companies are small businesses. One caveat, I'm not sure if Mastercraft, they have a sister company up in Denver, I'm not sure if they qualify, but all these companies have 500 or less employees, and they are the largest of these types of manufacturers in town here.

Now what we've had to do is we've had to obtain these Title V air quality operating permits.

MICHAEL: Sir, could you put your mic closer to you?

Knocking it up so our microphone can pick you up.

MR. ANDREWS: Okay. Well, the majority of these small businesses they're required to obtain a Title V air quality operating permit. This came into place in the Clean Air Act of 1990. 14 years from then until now most of my clients do not have these permits as of this date. I submitted applications in 1997 and 1999, and it took the agency five years to bring this up thinking about doing anything about these permits.

The unfortunate aspects of these manufacturers are we're considered Title V sources and we're in the same category as refineries and utilities. This creates a big problem for us. We're small businesses and we don't have the resources that the refineries have, or that the utilities that have. Frankly, their emissions, the utilities especially, especially here locally, they dwarf what we do. You look at the numbers that come out of those plants and you look at the numbers that come out of our plants, it's ridiculous. We're basically polluting very little so to speak. Their numbers are tremendous.

Again, let me go back to the reason, the reason we have to get these permits is because of our painting operations, and not because of our woodworking operations. During the process of applying for these permits, Region 9, and MCESD almost totally ignored the VOC issue and almost totally focused on woodworking activities and emissions of wood dust characterized as PM10. This was a total surprise to us. The reason why we're Title V is because the of VOCs from our painting operations.

We produce extremely small quantities of wood dust emissions or PM10. 90% of our companies control their wood dust emissions by use of a device called a bag house which is an industrialized version of a vacuum cleaner. It is highly efficient, it is highly dependable. They reduced the emissions to almost too insignificant and almost to non-existent levels. I'll give some examples of that. Legends recently tested on June 8, and they showed emissions of 0.019 pounds per hour. You put that over a calendar year of 40 hours a week, 52 weeks a year, that's 40 pounds a year. A similar result for Oak Canyon [phonetic] who's also here. They admitted 0.12 pounds per hour, or 250 pounds per year. In 1994, we had 52,000 metric tons emitted to the air. I tend to think that today we probably have close to 100,000 metric tons or PM10 entering the air, and yet this is the only issue for three years now that we've concentrated on. This has become a nightmare for us.

My felling, and my belief, and my knowledge is that this has been a total misdirection of resources, and it's been an all-out harassment of the industry. You do not want to [unintelligible] with these individuals from Region 9. They will come after you. There are a lot of issues I could talk about where they have come after us.

Anyway, that's what's going on. We also feel that on an

operating level there are all sorts of trickery and chicanery that they engage in. Maricopa [phonetic] County Environmental Services is the local permitting agency. They don't have any power, they don't have any authority. We talked to them, we talked to them for three years. We're not talking to the decision-maker. The decision-maker is up in San Francisco who sends e-mails down to these local people and tells them what to do. We wasted three years of our lives doing this. I sat in there with meetings with lawyers for \$500 an hour. For nothing. In any event, it's just been a complete misdirection of resources. It's still going on, and we're doing our best to get it resolved because we're all exhausted with this, we've said "Go ahead and test us." We're testing. The results have shown what we said all along that there is nothing coming out of these machines.

I'm going to change the subject now.

MICHAEL: Sir, you're at seven minutes now, and we need to close it up. We've got six or seven more people.

MR. ANDREWS: I understand. The issue is VOCs and there is another issue called resource review. It's a very complicated issue. We see it talked about in the media with regards to refinery and utility industries, and it's now being turned on us now in Arizona, small industries in Arizona, by USEPA Region 9. A couple of different aspects of that, there's something called baseline emissions that you have to establish new equipment. This new equipment is a spray booth [phonetic], we go to put in a spray booth we're going to be subject of this regulation called New Source Review in which we have to establish a baseline. They have something called the [unintelligible] which is their guideline. The [unintelligible] regulation says you establish the baseline two consecutive years of any two years in the past five years. The Puzzle book says you can't do that. It's the last two years. What has happened in the last several years with the bankruptcies in the 1990s and then with the events of 9/11, where do you increase the bankruptcies? If one of my customers here lost a major client, it cost him several million dollars on the business side. During this time when the business was down, they wanted to invest in a spray booth. Well, they can't do it. The reason is that the baseline went down so low that they aren't allowed to bring it back in. The Puzzle book is a policy that violates federal law and regulation, and I just don't understand, and what the Puzzle book is is a 1990 draft training manual for new source review, and I have a problem understanding-

MICHAEL: Sir, I'm going to have to close this up.

MR. ANDREWS: Okay. What I'm saying is very simple here. USEPA Region 9 is coming to destroy us. They're here. They left California they destroyed the industry out there. They're not at our door step, they're here. If something's not done it's all going to be gone, and if it's all gone you're all and all of you will regret it. This

agency is out of control. Headquarters does not run Region 9. Region 9 runs and does whatever it wants to do.

MICHAEL: Okay, I appreciate that. I've got your testimony in, but it's not as detailed as what you gave here today, so if you want to submit a more detailed testimony it's going to be better for you.

MR. ANDREWS: I will do that. I will follow-up with you, give you documentation, and various information.

MICHAEL: Thank you. Have we got Romeo Brown [phonetic]? Mr. Brown, I was looking over your testimony and I appreciate you being here. Some of the things you're going to testify about are trying to get loan assistance from the SBA, and I think the USDA, so if you like we can actually meet with you privately on that because it's not necessarily, you saw the thing that we did, my office doesn't necessarily help with those things, but we can put you in contact with folks that can. You can say a couple of things if you like, but it's not what my office does, but we can get you a personal meeting with someone if you would like that, but if you want to keep going go ahead. We got to keep it down to the five minutes.

MR. BROWN: Just for the record, thank you administrator, members of the board. My name is Romeo Brown, I'm a member of [Unintelligible] from Windarock [phonetic] St. Michaels, Arizona. I own and operate a 73-room basin motel and I own a Denny's restaurant. I employ about 80 people, and I started the motel back in 1998 and the Denny's in 2003, and I just want to say thank you to Mr. Mark Ingle [phonetic] of North [Unintelligible] College Small Business Development Center. They've been helping me back in 1997 to prepare a business plan, assisting me with the feasibility studies, and helping me find a lender on my projects. With the assistance of Mr. Ingle, I was fortunate to find a lender, Republic National Bank to finance my construction costs and also get my permanent financing loan utilizing USDA as a loan guaranteed program. During the course of the construction, Republic National Bank was purchased by another bank called Community First National Bank. Four months into the project, the engineers on this project discovered that the contractor was deviating from the plans and specifications. The engineer directed the bank to halt the project and make the necessary correction before proceeding with the construction. Since the bank had their inspector on site, I relied on this person to look after my interests. However, the inspector had knowledge that the contractor was deviating from plans and specifications and he and the bank permitted the contractor to proceed with the construction without correcting the deviations. The construction was overdue by seven months. In the meantime, the engineers would not certify the construction because the contractor did not build the project according to the plans and specifications. Since I could not get my project certified or obtain a certificate of occupancy, I filed a lawsuit against the contractor and the Community First National

Bank for lender liability in the Navaho courts.

While my law suit was pending in the Navaho court, Community First National Bank filed involuntary bankruptcy against me in July of 2001 through the Federal Bankruptcy Court in Phoenix, Arizona. The Federal Bankruptcy Court decided to hear this case in September of 2001. However, one day before the hearing, Community First National Bank called my attorney and proposed to settle this case out of court. After much negotiating and compromising, I agreed to the bank's offer. Instead of paying the bank \$3.9 million, we settled for \$1.2 million because the appraised value at the time was only for \$1.6 million because of the defects that the contractor caused. Part of the settlement agreement was to expunge the recording of this involuntary bankruptcy by the bank, which I did not file, which is still haunting me to this day. By Community First National Bank filing this involuntary bankruptcy against my wife and me, that has destroyed our credit status. Although I have written to the bankruptcy judge of this problem, I was informed that this recording of bankruptcy becomes public record, and must stay on my record for a number of years, being persecuted and humiliated for something that I did not commit.

But Community First National Bank has destroyed my credit status. I'm having a difficult time refinancing my motel land restaurant currently. I have applied to numerous lenders ever since the settlement in September 2001, but I keep being denied due to this derogatory information on my credit report. Some of the lenders have tried SBA programs, but the SBA could not assist me because of this bankruptcy. Presently, I'm using a private lender from San Diego, California who is charging me 13% interest only, and I have been paying many points for extending the loan every four months. In that sense, I have been throwing money away because SBA or USDA is not considering our loan request. My next deadline is October 1, 2004. If this private lender does not permit me another extension, he can easily default me and take over my motel and restaurant businesses, which I started. So out of desperation I come before you today to record that I have run out of alternatives. I want to know if the Small Business Administration can assist me in re-financing so that I can keep my businesses. I basically got into this business to assist my Navaho people, who have a 60% unemployment rate. I did not expect to encounter these types of problems, especially when I did not cause the problem. While Community First National Bank collected their guaranteed loan in full; I'm suffering at their expense. This hearing is my last resort to be heard. I do not know how or what the Small Business Association or USDA can do for me at this time, but I came with hopes that my re-financing will become reality in the near future. Thank you for that.

MICHAEL: Thank you for your testimony. Bruce Hodgman is here from our SBA office. The thing is, you know, and about the SBA, we don't loan the money, we just guarantee it, but things are based on

our own rules and regulations what we consider as taxpayer money. But Bruce will sit there and talk to you and see if there's anything we can do to assist you. Okay. Thank you. We have Spencer Camps [phonetic].

MR. CAMPS: Good afternoon. Thank you for the time to talk here today. My name is Spencer Camps, I'm vice president of legislative affairs for the Homebuilders Association of Central Arizona. My comments today relate to the EPA and the Clean Air Act.

MICHAEL: How many people do you represent in your association?

MR. CAMPS: We have approximately 1,000 members, of which over a majority I think are small businesses defined as 100 employees or less. The HBAC has obviously been supportive of many clean air efforts over the years. We have a history of proving that. I'm going to abbreviate my comments, obviously, over time, but the issue I wanted to discuss today is that we had various rules and policies that quite honestly aren't focused on reducing gas emissions that are unworkable, that are confusing, that only set us up for failure when it comes to the PM10 regulations in this area. Specifically, we're in a time frame right now where over the next three years our dust-monitoring network must be clean on a 24-hour standard and the annual standard. If we're not clean, the construction industry [phonetic] has been pushed from a regulatory standpoint so far against the wall that the only result if we are not clean and suffer from the 5% mandated reductions; we will suffer from economic consequences and job losses. I'm telling you that right now.

The facts are we're cleaner, and we're getting cleaner. Violations are down in the dust monitoring system. They're not there but they're getting down. And dust comes from a variety of source not related to construction. We're arguably 25% to 30% of the problem. There are a number of sources out there that aren't regulated, specifically farming, and of course, we have some Native American reservations close by here in the Valley that don't fall under the clean air act, but that dust migrates into this area. But when sanctions come down, the construction industry can be easily regulated because we pull earth moving permits and what happens? The regulations get jammed harder and harder down on the construction industry.

The salt river [unintelligible]. We have a problem monitor down at 43rd Avenue on Buckeye [phonetic]. Actually, everybody is in agreement. We need to develop a specific plan to deal with the issues in that salt river monitor. Construction's not an issue down there. It's primarily industrial sources and the salt river bed, that's logical. But there are issues involved in that that can bleed into the construction industry. I actually support a specific plan to deal with that monitor down there, but I am in a position to oppose the provisions of that plan

right now, because they will bleed into enforcement actions across the county, specifically due to EPA policy. All of those restrictions in that little areas can be enforced county-wide due to EPA policy. That's insane. Everybody here says, "Hey we got a problem, let's go fix it. Let's deal with those issues down in that little area." But because of that policy, all of us can be enforced against county-wide. I think that policy needs to be changed quickly.

Targeting violators. We've been told that there's been a list sent to EPA of multiple violators over a year-and-a-half. That is a specific targeting of the interest industry simply because we've been easily monitored through our earth-moving permits. I asked the EPA is that being done in any other region? And I think the answer is no.

Competing non-attainment area issues. There are other non-attainment areas and regions in Clark County and areas in California. Guess what? When they adopt something, the e-mail comes down. Arizona you need to do that. Specifically, I got supervisor on site, we've been opposed to that due to the cost issue. Secondly, water application rates. It doesn't matter if you emit dust or not, you've got to apply the right amount of water. That's crazy, and there's micro-managing the work practices regardless of whether an emission happens in our view, and I think that's very costly and sets us up for a violation based on water-application rates, not whether we emit dust which is crazy.

Renewed emphasis on dust suppressant. We build homes, they're people's front yards. If we have to apply a dust suppressant which EPA has yet to approve one for application that we can use, we're liable for potential environmental problems. Specifically, Arizona has the APP process which deals with discharge of pollutants. That's unique to this area. I don't know if any of these dust suppressants comply with that process setting us up for additional regulatory problems and cost.

The dust storm rule. The dust storm current rule meaning it counts in our dust monitoring network and is only exempt if it's over 15.7 miles an hour for three years. I've lived here my whole life. I think I've seen one dust storm that lasts more than three hours. That rule needs to be changed. That counts in the system, and what is the result? More regulation on who? The construction industry because we can be easily regulated. There are farmlands for 30 miles south of here, those storms come from the South-West, they roll up here for maybe 45 minutes at the most, and they bring tons of dust and that's a natural event that no one can control, and that rule needs to be changed.

There are a number of micro-management practices that go on through rule 3.10 that, in my opinion, have nothing to do with dust emissions. I won't bore you with those, but believe me there are many.

Finally, I just want to say, and I want to conclude with, is that I

don't think the current county rule which is mandated through this top-down approach, and the gentleman before me mentioned this, deals with actual dust emissions. It deals with work practices, it sets us up for jeopardy, and I don't think deals with the very sources that are actually contributing to the problem. We would seek any assistance that we can get in fixing any of these problems.

MICHAEL: Thank you, if you wouldn't mind, I looked through your testimony and there are several talking points that are helpful, but if you could flesh those out for us again. We do have some from the SBA here, but in order to protect what you said and we can make sure that we can get the right information to them, if you could provide us with a more fleshed out written testimony. We do appreciate you coming.

Okay, we have, let's see, Andy Gordon [phonetic]?

MR. GORDON: Hi. First, as always, we very much appreciate you coming to Arizona in order to see and hear what is on our minds regarding federal regulatory compliance and enforcement. I learned a lot today, that's for sure. Second, I want to complement our state director Robert Blaney and his deputy director Bruce Hodgman and their staff for always being there and their hands on participation in small businesses throughout the state. Also, I want to thank the administrator and the SBA for its two pretty creative programs, the new Market Venture Capital Program, and partnering with the Department of Agriculture on the World Business Investment Program to try to get venture capital into communities that don't normally enjoy that benefit.

I'm president of Arizona MultiBank Community Development Corporation. We're certified by the US Department of Treasury as a community development financial institution, and over the past 12 years we have provided over \$27 million in financing over 320 projects throughout Arizona. 80% of our borrowers have been small businesses, and two-thirds of these have been minority women-owned businesses. In certain cases, we've subordinated the loans guaranteed by the SBA and helped projects go forward that wouldn't go otherwise. We also finance non-profit organizations, affordable housing developers, and, in total, Arizona MultiBank has provided loans that supported projects over \$100 million. Frankly, I don't think Arizona MultiBank would exist today without the Community Reinvestment Act, and it's requirement of regulated banks to penetrate and serve low moderate income communities and provide financing to folks who have historically had limited access to capital. The Arizona MultiBank has 19 banks investing over \$10 million in us to and the Star Trek tradition to boldly go where no bank's gone before or go where they've been, and that they're hesitant in going again.

The reason I'm here today is to express the concern that the current CRA proposed rule change which increases the threshold of the

small bank from \$250 million to \$1 billion may have an adverse effect on small bank support of small businesses, affordable housing projects, and non-profit organizations in low moderate income communities in Arizona and across the country. As I state at work through the development financial institutions certified by the treasury department, there are over 700 of us across the country, and many of us rely on banks for our support in order to serve the community. I'd very much appreciate the SBA looking into this proposed change and share its analysis on the implication for small business lending in particular. The comment period to the Federal Deposit Insurance Corporation, FDIC, has been extended to October 20, 2004.

I am concerned at this time that this proposed change will reduce the involvement of banks in the small business community and low moderate income communities, and in fact, as you may know, small business investment companies, investment in those do qualify for the investment test for banks. In fact, that would no longer apply for banks under that \$1 billion threshold. So banks would be less favorably disposed to possibly investing in debenture SBICs.

I think now is not the time to reduce private investment that supports small businesses particularly at a time when federal dollars are so scarce. Thank you for the opportunity to comment.

MICHAEL: Thank you, Sir. Okay, Rochelle Balt [phonetic] is she here by any chance? We'll go ahead, Gary Pacific?

MR. PACIFIC: I work for a small industry here in the community that specializes in international. We're a consulting firm. However, I'd like to take that hat off, and for a moment I'm also the chairman of the District Export Council. I'm an appointee from Secretary Evans, and I would like to refer my comments as they apply to small businesses from an international standpoint.

In Arizona, we're really lucky. I'm going to talk about two segments that impact small businesses here. We have 27.8 million visitors who come here to Arizona every year. That represents \$12.14 billion of income here in Arizona. By the way, the average person stays here 4.1 days. I hope you stayed. In the year 2000, we had 970,000 foreign visitors, overseas visitors who came here. Most of you probably know that when somebody comes into the United States with dollars, that is considered an export, and to that end we've been enjoying here in Arizona, a good portion for our economy is based on tourism. In the year 2003, we saw a precipitous drop that went from 970,000 down to 544,000. That's a 44% drop. Thus, we've had major impacts to small businesses here in Arizona. I want to quickly get to the point. We've had the tourism at it applies to convention, also to the industry, foreign students coming in to this country. I'll be writing it up and I'll send it, so it'll be in much more broad information, but I want to cover quickly.

We're fortunate we have a lot of conventions here, many people coming from overseas. To that point, they attend these. Really since 9/11, we've seen a major impact. Why? Because of the change in visas. As you probably know, a visa to come into the United States now costs \$100. If you are a family that's come to Disneyland, and you have six people in your family, that could cost you as high as \$800. That's a major impact. Now can you imagine what that kind of impact does here in Arizona to small business.

Specifically we are fortunate here to have a major graduate school called Thunderbird. It has a wonderful international reputation. In the year 2000, we had 1,500 students, of which 50% were foreign. Today, we're down to 850, a major impact on the economy of that school.

What I would like to enclose, point out to you, because part of what you do is act as a sounding board to the other agencies in the government. We in Arizona would appreciate it in your discussion with the INS and other agencies of the government Mr. Barreto, [Unintelligible] and others. I could talk for hours on the impact for my friends in San Diego, Los Angeles, and San Francisco. We would appreciate it if you would be mindful that the SBA could really help out with these institutions in helping to expedite people who are coming to the United States and attaining the H1 visa or any of the visas. If you've ever gone through an embassy and watched the millions of lines of people getting visas to come into this country, you'll know it's an arduous process, long lines, and it's getting worse, although the government is doing the best it can. Thanks to the administration they really are. In close, we would ask you to please in your evaluation of venture capital, small business loans to the tourism industry, if you would also analyze helping to facilitate the visa process that we would really appreciate it.

MICHAEL: Thank you for those comments. We will definitely take those back. We very much understand the importance of having trade or commerce, especially along Border States, and we're really attempting to do something about that. One thing, as you may be well aware, is that some of the changes that have occurred at INS over the last few years, you know the separation of the administrative and enforcement part of it.

[END TAPE 3 SIDE A]

[START TAPE 4 SIDE A]

MALE VOICE: They went out and interviewed the clients like we are, and in fact the environmentalists, because I don't know how to say the side of us, but they are. We're environmentally concerned about our pollution just like they are, but they went out and there were surveys done about how we were treated from the people we deal with, that might be effective. In trying to get a couple of ideas here you

could go back with. Also the oversight, you know, when people make comments like that, it's [unintelligible] things. You know, I'll give you a perspective here. It's the people that administered us. On Saturday I got a phone call; my environmental manager, his wife called said he'd had a massive heart attack. On Monday morning, Mike Tyler [phonetic] went from president to environmental manager. So my job today in our company is environmental manager. I'm a Title V permit applicant. We're a small business. [Unintelligible] is the environmental manager. When I go and I approach government on issues and I won't go into the details of them. I find it very difficult to do this way. These are not the laws. These are just the way the want me to keep records, but these are not laws, because [background noise]. The attitudes I get are, "Well we want you to do it that way." When I asked the government agencies, "I don't know how I could do it that way, you're setting me up to become a violator because I don't think I can continually do it the way you're asking me. I could do it this way instead, will that work for you?" What I find is they say no, and I ask them, "How would you expect me to do that?" in a way that they might propose. Their attitude is, "It is not our responsibility to implement these things. Our job is to tell you how to do it." Government is really a leader, so leaders [unintelligible] public interest, and a good leader doesn't ask people that are underneath them to do something that they themselves couldn't do. And that is not occurring in the middle [unintelligible]. I see it at a higher level. I see that there is a shortage of people who will listen at higher levels. How do people like yourselves try to get a low-level government, where we care philosophy [phonetic]. I'm just going to throw in a few things. One is when people are interviewed in government, on the questionnaires they ask in the interview... If somebody is an environmental engineer they ask "Where did you go to school, what education did you get?" They may ask technical questions. Do they ask, "How is your job going to affect businesses?" [Unintelligible] perspective of an environmental engineer, 20 years ago when you look at a main railway line that goes through the United States, you would see 70 box cars that have domestic filling on them. Now if you look at 70 cars on the railway tracks, you'll see 70 rail cars have container on them [unintelligible] and that's the type of 'we care' philosophy that I think the government needs to try to take if small businesses are going to survive.

It's a difficult task trying to get a hold of these kinds of issues, and frankly I don't know if I'd want your job over mine, but it's a difficult thing and all I want to send in a message to you today is I can see it at the high levels and those are [unintelligible] positions, but at the low level they don't care. When I propose alternatives to the ways that they want me to do things that are not [unintelligible] but are just their ways of doing things. There is not an open ear there. So thank you.

MICHAEL: You know, you can [unintelligible] about some of the things we're still dealing with. We said earlier that the primary mission of my office is not to have one any more. And that really is, but we have several ways to go. We meet with all the federal agencies, and Tom will tell you this, [background noise] and I'm going to send them what you just said today and actually read it out loud to the rest of the agencies so they can read that.

MALE VOICE: You know due process, I think that there's, I'm sure it's not intentional, especially at the upper echelons, but as I understand lay permits are, and I won't get into too much detail, basically, we work with the county to put together permit application. It's then supposed to go to the EPA. The EPA then reviews it, that's like a 45-day period, sends their comments back to the county, the county addresses those issues, and that's the way the process works.

And as Mr. Andrews discussed earlier, the way that the process works, the way that I see it right now, is that the EPA tells the county what to put in the permit so that they'll accept it. Then when we go to the county to say, 'we don't like this, we don't like this,' the county is in a position to say, 'sorry, we didn't put it in there. The EPA wants it. Go talk to the EPA.'

When we ask the EPA about it, their comeback to us is, 'well, we actually didn't give a permit yet, we have no comment on this, deal with the county.' So due process is being eliminated from my point of view because the EPA is mandated to the county how they're going to set a permit up, not on law type issues, but on guidelines, these things that are flexible. The EPA is mandating to the county how to do things, the county turns around and says, "It wasn't our idea, we can't do anything about it." When we turn around to talk to the EPA about it, they say, "Well we haven't [unintelligible] the permit, talk to the county." So we have nowhere to go.

This is the second issue. I see due process being short-cutted here and we have nowhere to go. So I know it's complicated. The big issue is you know that we care, but I see due process being short-cut here, and I know that's a big statement to make but that's what I see, and I think if you asked people in our industry I think they'd say the same thing. Thank you very much.

MICHAEL: Thank you. And we have next, Correl Electric [phonetic] another walk in.

MR. CORREL: I feel a little bit strange here because I bring good news, after hearing some of these things that you have to say.

[Laughter]

MICHAEL: Well you're allowed testify.

MR. CORREL: My name is John Correl and I'm president and

CEO of the Correl Company. We're an 8(a) [phonetic] graduate, and as an 8(a) graduate, we bring a lot of insight, a lot of wisdom into the 8(a) program and also as far as SBA, and what SBA can do with the 8(a) program. First of all, we need the 8(a) program. The Hispanic Chamber of Commerce asked me to come forward and speak on behalf of small minority companies, and what do we need to do within the 8(a) program because of the success of the 8(a) program. There are a lot of successful contractors within the 8(a) program, and we need to utilize these people after they graduate. What happens is once we graduate, those of us that have done well go into other endeavors, diversify, yet there's a lot of 8(a) contractors that still need a lot of help. That in the 8(a) program is a much, and we need to know what to do to keep the program for one other than vote for President Bush. As far as, with the 8(a) program, in order to get into the program, and I'm preaching to the choir now, you have to be successful before you can come into the program. You cannot be someone who is not capable of running a business, and then expect the federal government to come in and run the business for you.

What we did was, being successful in the contracting business, the 8(a) program enabled us to go on and do \$100 million projects, and we've done multiples of these type of contracts. We went on to receive Contractor of the Year for the nation, twice, and after graduating from the program, what I encountered were there were a lot of little companies that weren't going to make it after the program, and is there life after 8(a)? Yes there is, and what I'm proposing is basically what do we need to do to help you make sure the 8(a) program stays in place.

Mentoring is a very good way. If we have something where we have a requirement of 8(a) contractors, they are mentored prior to the graduation, and possibly being mentored by 8(a) graduates. That was a requirement to enter into the 8(a) program, but as you exit out of the program for at least the next two years, you're going to be mentoring other companies, even though you've graduated out of the program. So that's one way to do it.

The other way is through strategic alliances. I was happy to see Andy Gordon here from Arizona MultiBank. After we graduated from the 8(a) program, we were able to go in and do the larger projects, the \$100 million projects, with the assistance of Arizona MultiBank. So it's very, very important. What is it that took us to this level is the strategic alliances. We need to start advocating after the 8(a), or during the 8(a), that we need to form strategic alliances with your Fortune 500 companies. How can this be done? We've done three of these now, with GTE, [Unintelligible] and with AT & T.

Basically, why I'm here today is to say that as an 8(a) graduate, and having enjoyed the success and the prosperity, there's a lot of us here willing to come back and say, we're willing to help you to mentor after the program and even during the program, and to start forming

strategic alliances with the Fortune 500 companies so that they can now start taking over the lead and have SBA then start dropping out.

So in closing, I'm here representing the Hispanic Chamber, and asking what can we do to make sure that the 8(a) program works. With that, thank you.

MALE VOICE: Thank you, John. First of all, let me congratulate you for your success. 8(a) has been a very important accomplishment, I believe, of the administration. What am I talking about? You know, when I first came into the SBA a little over three years ago, there was probably 6,000 8(a) firms. 8(a) is a minority business development program. There are millions of minority businesses in the United States and we have 6,000 firms in the 8(a) program. Of the 6,000 firms in the 8(a) program, which is a contracting program, only 3,000 had ever gotten a chance to do business in the 8(a) program, so 50% of the people that go into 8(a) got nothing.

Of the 50% that were in the program, 200 firms got most of the contracts. Now where are those firms located? You know, they're in Washington DC, so the program, in my opinion, which was a great program, wasn't working. It was what I considered to be top heavy, so we made a determination, and by the way, this is something that our president told us at the very beginning, if you do it well keep doing it, if you don't do it well fix it, and if you can't fix it stop doing it. That's basically this. So we decided to fix the 8(a) program. And I have good news for you. In those last three years, we've taken the amount of 8(a) firms from 6,000 to 9,000. Still not enough, but we've increased it by 50%.

One of the problems that people had in participating in the 8(a) program was there was too much paperwork. It took too long. I remember a lady told me one time, she said, "You know, I wanted to be an 8(a) contractor, and I worked at it, and it took me a year to get approved, and I filled out the phone book of forms, and I had to hire consultants to help me fill out the forms, and finally the big day came when I got my first 8(a) contract. It was a \$25,000 contract, and it only cost me \$50,000 to get it." That's what she told me. So that was the problem with the 8(a) program. I'm happy to report to you, John, that since our administration has been in, two years ago 8(a) contracts amounted to about \$6 billion. Last year, we did \$10 billion of 8(a) contracts, 60% more than the year before. We increased the amount of 8(a) firms by 50%. The problem, of access to the program has been solved because we've automated the 8(a) application. Last month, during minority enterprise development week, we announced that no small businesses can go online and fill out the form themselves, without a consultant, without talking a lot of time, and they can do that. That is going to multiply the number of 8(a) firms. Now, once they got into the program, they didn't know what to do. You mentioned that.

So we added another layer of trading, we have a business academy, an all of our offices and resource providers are working with those contractors to help align their expectations, so that's the second problem.

The first problem was access, we took care of that, the second problem was training. The third problem was real opportunities. Earlier today, we did an event where we made an announcement where the Hispanic Chamber participated and so did the African-American Chamber, the Asian Chamber, and the Women's Chambers. Well, we announced a business match-making initiative that we're bringing to Phoenix, Arizona. Over the last two years, SBA through the match-making initiative has set up 22,000 one-on-one appointments between small businesses and the buyers of every federal agency and most Fortune 500 companies, Hewlett-Packard, Microsoft Office people. You name it; we have a lot of corporations that are participating. That is happening as well.

One of the things, you know, the answer to your question is yes, we accept your offer to help us, we'd love to have you involved in kind of a service corp of retired 8(a) firms that could help new 8(a) firms. We definitely could use an opportunity for you to partner. You have know-how and know-who, and that's a very important component to being successful, so we think you could partner with some of those business firms. We definitely would like you to get more involved with business match-making. By the way, not only are we going to do these events, we're taking business match-making online, so that small businesses around the country, whether they're an 8(a) firm or not can access these federal buyers.

The last thing I would say to you is that federal procurement to small businesses is going up. Before us, it was very difficult for government to even do 23% federal contracting. By the way, that's the federal goal for contracting, and they hardly ever hit it. Last year, the federal government bought \$65.5 billion worth of goods and services from small businesses. That was almost 24% of everything the federal government bought, and remember federal government is buying more now than it ever was before, buying about \$260 billion worth of goods and services, and they buy everything, so you have a kindred spirit here. We know that this is one of the most important issues for small business. Whether you are a minority business or not, small business needs the same thing big business needs, they need more business, and we're very proud of our legacy and history of helping all small businesses, but especially the fastest-growing segments of small business which are minority businesses, women-owned businesses. So thank you for your comments, thank you for your commitment. We will definitely follow-up with you. I just want you to know that we're working very closely with Arizona Hispanic Chamber, and two weeks ago I signed a strategic alliance memorandum with the US Hispanic

Chamber of Commerce to help Hispanic businesses all across this country.

MALE VOICE: John, I have one comment also and that was that I will tell everybody that you were kind enough to come to my office and we had a discussion about this, and Anita Gibson [phonetic] from my office was in that discussion, and she came running into my office last either Thursday or Friday and said to me I found somebody to send to John Correl. So if you haven't heard from here, you will be hearing from her because she has a candidate for the Correl School of Small Business.

MICHAEL: That pretty much concludes our testimony from the small businesses. We have some federal agencies, I'm not sure they didn't want to comment here today, otherwise we'll send your comments to them, and you'll be hearing back from them. Again, of those I asked to supplement your testimony, please do that so we can get that to them. Also if you want other help besides the Ombudsman's office, be sure and use Michael Hull. Mike's got some good news for people here in Arizona who wants to talk about the Red Flex [phonetic] Act and how that can help them. Mike, you want to come in on that.

MR. HULL: Oh sure. Yeah, I guess real quick, for what we do federally which is federally proposed rules, try to make sure that they do not harm or burden small business unfairly. Arizona, of course, has one as well. Unfortunately Lydia has left, but the governor's regulatory review council for any state proposed rules can also help you out to make sure they don't finalize them if they're going to harm your business. So you can look them up too on the Department of Commerce Website.

MICHAEL: Again, I want to thank the federal agencies that did come here and listen to your testimony. I know we have a couple of agencies that were coming along, so they heard directly from you. So that would be important for them to get back with you and they will. Also I want to thank our friends here from California. They took time out of their day. They don't get paid to do this. They are volunteers. I want to thank Kimberley Keane [phonetic] from San Francisco and Barry Gold. They really are trying to service their communities and we really do appreciate that. Also thank everybody from the local SBA staff. You got some good people here. Again, we're here to help. And I am serious about that, the check is not in the mail, but we are here to help.

[Laughter]

MICHAEL: Go have a great business week, thank you.

[END TAPE 4 SIDE A]